

JS 44 CAND (Rev. 9/2/11)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

ALI ASGHARI, individually, and on behalf of a class of similarly situated individuals

(b) County of Residence of First Listed Plaintiff Los Angeles, CA  
(EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**

VOLKSWAGEN GROUP OF AMERICA, INC., VOLKSWAGEN AG, AND AUDI AG

County of Residence of First Listed Defendant Fairfax, VA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (First Name, Address, and Telephone Number)

Neda Roshanian (SBN 225337); Michael Coats (SBN 258941);  
Law Offices of Mark Yablonovich;  
1875 Century Park E., Ste. 700, Los Angeles, CA 90067; 310-286-0246

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

- |  |   |  |  |  |   |
|--|---|--|--|--|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other   | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157   | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 495 Securities/Commodities/Exchange<br><input checked="" type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education   | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> Habeas Corpus:<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement   | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Rel. Inc. Security Act | <input type="checkbox"/> 861 HIA (1395M)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)<br><input type="checkbox"/> 465 Other Immigration Actions  |

**V. ORIGIN**

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 USC § 2301, CA CLRA § 1750, CA Comm. Code § 2313, CA B&P Code § 17200, NY CPDAP Act § 349

Brief description of cause:  
 Class Action for violation of consumer protection statutes.

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ Exceeds \$ 5,000,000.00

CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Donna M. Ryu

DOCKET NUMBER 4:12-cv-01156-DMR

**IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)**

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

DATE 05/01/2012

SIGNATURE OF ATTORNEY OF RECORD

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Attorneys for Plaintiff Ali Asghari

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA—SAN FRANCISCO DIVISION

Case No.:

ALI ASGHARI, individually, and on  
 behalf of a class of similarly situated  
 individuals,

Plaintiff,

vs.

VOLKSWAGEN GROUP OF  
 AMERICA, INC., VOLKSWAGEN  
 AG, AND AUDI AG,

Defendant.

**CLASS ACTION COMPLAINT  
 FOR:**

- (1) **Violations Of California  
 Consumer Legal Remedies Act;**
- (2) **Violations Of Unfair Business  
 Practices Act;**
- (3) **Violation Of New York  
 Consumer Protection From  
 Deceptive Acts And Practices  
 Act;**
- (4) **Violation Of Magnuson-Moss  
 Warranty Act;**
- (5) **Breach Of Express Warranty  
 under Cal. Com. Code § 2313;  
 and**
- (6) **Violations of Express Warranty  
 Pursuant to N.Y. U.C.C. Law  
 §§ 2-31.3**

**JURY TRIAL DEMANDED**

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LAW OFFICES OF  
 MARK YABLONOVICH  
 LOS ANGELES

FILED  
 2012 MAY -1 P 2:53  
 CLERK OF DISTRICT COURT  
 SAN FRANCISCO, CALIFORNIA  
 JSC

## INTRODUCTION

1. Plaintiff ALI ASGHARI ("Plaintiff") brings this action individually and on behalf of all similarly situated persons ("Class Members") who purchased or leased certain defective Volkswagen or Audi vehicles that were designed, manufactured, distributed, marketed, sold, and leased by Defendants, Volkswagen Group of America, Inc., Volkswagen AG, and Audi AG (collectively "Volkswagen" or "Defendants").

2. Defendants designed, manufactured, distributed, marketed, sold, and leased vehicles equipped with 2.0-liter turbocharged engines ("Class Vehicles" or "Vehicles")<sup>1</sup> to Plaintiff and Class Members.

3. Defendants knew or should have known that the Class Vehicles contain one or more design and/or manufacturing defects, including but not limited to defects contained in the Class Vehicles' engine that cause it to consume abnormally high rates of oil (the "excessive oil consumption defect.")

4. Motor oil functions as an essential lubricant for the moving parts in internal combustion engines. The oil creates a film separating surfaces of adjacent moving parts to minimize direct contact, thereby decreasing heat caused by friction and reducing wear. Motor oil also has important cleaning and sealing functions, and serves as an important medium for dissipating heat throughout the engine.

5. The excessive oil consumption defect causes excessive amount of oil to be consumed within the engine. In the Class Vehicles, the rate of consumption is as high as one (1) quart of oil per 500 miles driven for some Class Members. The excessive oil consumption defect thus requires the addition

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<sup>1</sup> The Class Vehicles are any 2007 through 2012 model year Audi or Volkswagen vehicles equipped with a 2.0 liter turbocharged engine. On information and belief, these vehicles include, but are not limited to, the following Audi models: TT, A3, A4, A5, A5 Cabrio, A6, and Q6; and the following Volkswagen models: GTI, GLI, Tiguan, EOS, Passat/CC, and Jetta.

1 of substantial amounts of oil between maintenance scheduled oil changes and  
2 can result in engine damage.

3 6. The oil consumption defect is a safety concern because it prevents  
4 the engine from maintaining the proper level of engine oil, and causes  
5 voluminous oil consumption that cannot be reasonably anticipated or predicted.  
6 Therefore, this excessive oil consumption defect is unreasonably dangerous  
7 because it can cause engine failure while the Class Vehicles are in operation at  
8 any time and under any driving conditions or speeds, thereby exposing the Class  
9 Vehicle drivers, their passengers and others who share the road with them to  
10 serious risk of accidents and injury.

11 7. Prior to purchasing the Class Vehicles, Plaintiff and other Class  
12 Members did not know that the Class Vehicles suffered from an excessive oil  
13 consumption defect and did not contemplate that the Class Vehicles' engines  
14 would be unable to prevent substantial amounts of oil from being consumed due  
15 to defects contained therein and thereby requiring costly supplemental oil to be  
16 added between scheduled oil changes, as well as other related repairs that can  
17 cost hundreds to thousands of dollars.

18 8. Plaintiff is informed and believes and based thereon alleges that  
19 Defendants knew or should have known that the Class Vehicles are defective and  
20 suffer from the excessive oil consumption defect and are not fit for their intended  
21 purpose of providing consumers with safe and reliable transportation.  
22 Nevertheless, Defendants have actively concealed and failed to disclose this  
23 defect from Plaintiff and the Class Members at the time of purchase or lease and  
24 thereafter.

25 9. Defendants knew and concealed the excessive oil consumption  
26 defect that is contained in every Class Vehicle, along with the attendant  
27 dangerous safety problems and associated costs, from Plaintiff and Class  
28 Members at the time of sale and thereafter. This undisclosed defect has caused



1 Plaintiff and prospective class members to experience the excessive oil  
2 consumption defect throughout the life of the Class Vehicles, which includes use  
3 within the warranty period. Had Plaintiff and the Class Members known about  
4 this defect at the time of sale or lease, as well as the associated costs related to  
5 this defect, Plaintiff and the Class Members would not have purchased the Class  
6 Vehicles or would have paid less for them.

7 10. As a result of their reliance on Defendants' omissions and/or  
8 misrepresentation, owners and/or lessees of the Class Vehicles have suffered  
9 ascertainable loss of money, property, and/or loss in value of their Class  
10 Vehicles.

11 PARTIES

12 **PLAINTIFF ALI ASGHARI:**

13 11. Plaintiff ALI ASGHARI is a California citizen who lives in Los  
14 Angeles, California. Mr. Asghari leased a new 2010 Audi A5 from Audi dealer,  
15 Atlantic Imports, Inc., d.b.a. Atlantic Audi West, in West Islip, New York, on  
16 December 29, 2009. Mr. Asghari purchased this vehicle primarily for his  
17 personal, family, or household purposes. This vehicle was designed,  
18 manufactured, sold, distributed, advertised, marketed, and warranted by  
19 Volkswagen.

20 12. Plaintiff on several occasions has paid out of pocket to add  
21 supplemental oil between oil changes.

22 13. On or around September 7, 2010, with approximately 8,887 miles  
23 on the odometer, Plaintiff visited Audi dealer, Santa Monica Audi, informing the  
24 dealer that he had to add oil when the oil light came on.

25 14. On or around August 15, 2011, with approximately 20,116 miles on  
26 the odometer, Plaintiff returned to the Audi dealer complaining of excessive oil  
27 consumption. In response, the dealer conducted an "oil consumption test" on  
28 Plaintiff's vehicle and verified Plaintiff's excessive oil consumption concerns.

1           15. Specifically, the dealer found that Plaintiff's vehicle was consuming  
2 0.76 quarts per 1,000 miles driven (or approximately (1) quart per 1300-1400  
3 miles) and as a result kept Plaintiff's vehicle over a two week period to conduct  
4 engine repairs.

5           16. At all times, Plaintiff, like all Class Members, has driven his  
6 vehicle in a foreseeable manner and in the manner in which it was intended to be  
7 used.

8 **Defendants:**

9           17. Volkswagen Group of America, Inc. is a corporation organized and  
10 in existence under the laws of the State of New Jersey and registered with the  
11 California Department of Corporations to conduct business in California. At all  
12 times relevant herein, Volkswagen Group of America, Inc. was engaged in the  
13 business of designing, manufacturing, constructing, assembling, marketing,  
14 distributing, and selling automobiles and other motor vehicles and motor vehicle  
15 components in California and throughout the United States of America.

16           18. Volkswagen AG is a foreign corporation headquartered at Berliner  
17 Ring 2 38440 Wolfsburg, Federal Republic of Germany. At all relevant times,  
18 Volkswagen AG took part in designing, engineering, manufacturing, testing,  
19 marketing, supplying, selling, and distributing motor vehicles, including Class  
20 Vehicles, in San Francisco County, California, and throughout the United States  
21 of America. Through its wholly owned subsidiaries and agents, Volkswagen AG  
22 markets its products in a continuous manner in the United States, including  
23 California. Volkswagen AG maintains a Detroit Office and a Volkswagen AG  
24 Investor Relations office in Herndon, Virginia.

25           19. Audi AG is a foreign corporation located at Auto-Union-Str. 2 D-  
26 85045, Ingolstadt, Germany. At all relevant times, Audi AG took part in  
27 designing, engineering, manufacturing, testing, marketing, supplying, selling,  
28 and distributing motor vehicles, including Class Vehicles, in San Francisco

1 County, California, and throughout the United States of America. Through its  
2 subsidiary, Audi of America, LLC, Audi AG markets its products in a  
3 continuous manner in the United States, including California. Audi of America,  
4 LLC is the entity through which Audi AG sells Audi Vehicles in the United  
5 States. Audi AG maintains its principle place of business in Herndon, Virginia.

#### 6 JURISDICTION

7 20. This is a class action.

8 21. Members of the Proposed Class are citizens of states different from  
9 the home states of Defendants.

10 22. On information and belief, aggregate claims of individual Class  
11 Members exceed \$5,000,000.00, exclusive of interests and costs.

12 23. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d).

#### 13 VENUE

14 24. Volkswagen, through its business of distributing, selling, and  
15 leasing the Class Vehicles, has established sufficient contacts in this district such  
16 that personal jurisdiction is appropriate. Defendant is deemed to reside in this  
17 district pursuant to 28 U.S.C. § 1391. Plaintiff's counsel's Declaration, as  
18 required under California Civil Code section 1780 (d) is also attached as Exhibit  
19 1.

20 25. Venue is proper in this District under 28 U.S.C. § 1391 (a).

#### 21 FACTUAL ALLEGATIONS

22 26. For years, Volkswagen has designed, manufactured, distributed,  
23 sold, and leased the Class Vehicles. Upon information and belief, it has sold,  
24 directly or indirectly through dealers and other retail outlets, hundreds of  
25 thousands of Class Vehicles nationwide.

26 27. The Class Vehicles contain one or more design and/or  
27 manufacturing defects, including but not limited to defects contained in the Class  
28 Vehicles' engines that cause them to experience abnormally high rates of oil



1 consumption (the “excessive oil consumption defect.”)

2 28. Plaintiff is informed and believes and based thereon alleges that  
3 Volkswagen acquired its knowledge of the excessive oil consumption defect  
4 through sources not available to Class Members, including but not limited to pre-  
5 release testing data, early consumer complaints about the excessive oil  
6 consumption to Defendant and its dealers about the Class Vehicles as well as  
7 other earlier model year versions of such vehicles, testing conducted in response  
8 to those complaints, aggregate data from Volkswagen’s dealers, and from other  
9 internal sources.

10 29. Volkswagen has a duty to disclose the excessive oil consumption  
11 defect and the associated out-of-pocket repair costs to Class Vehicles owners,  
12 among other reasons, because the defect poses an unreasonable safety hazard;  
13 because Volkswagen had and has exclusive knowledge or access to material  
14 facts about the Class Vehicles and engines that were and are not known or  
15 reasonably discoverable by Plaintiff and Class Members; and because  
16 Volkswagen has actively concealed the excessive oil consumption defect from its  
17 customers.

18 30. Hundreds, if not thousands, of purchasers and lessees of the Class  
19 Vehicles have experienced the excessive oil consumption defect. Complaints  
20 filed by consumers with the NHTSA and posted on the Internet demonstrate that  
21 the defect is widespread. The complaints also indicate Volkswagen’s awareness  
22 of the defect and its potential danger (note that spelling and grammar mistakes  
23 remain as found in the original):

- 24 • NHTSA Complaint: [2007 AUDI A4] AFTER  
25 LEASING THE CAR 2 MONTHS LATER I HAD  
26 TO ADD OIL TO IT. THE ENGINE BURNS OIL  
27 LIKE CRAZY. 1 QUART OF OIL PER MONTH  
28 TO MONTH AND A HALF. THE ENGINE OIL  
WARNING LIGHT HAS COME SEVERAL TIMES  
CAUSING ME TO PULL OFF THE ROAD INTO  
THE CLOSEST GAS STATION TO BUY SOME  
OIL. DEPENDING OF WHEN IT HAPPENS, THIS



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HAS BEEN SOMEWHAT STRESSFUL. I HAVE BEEN TOLD THIS IS NORMAL. I DO NOT THINK SO. IF THEY HAD TOLD ME THIS, I WOULD NOT HAVE LEASED THIS CAR! \*TR

- NHTSA Complaint: [2009 AUDI A4] THIS AUDI WAS A LEMON FROM THE START AND BOTCHED REPAIRS AT THE DEALER HAVE ONLY MADE IT WORSE. ONE THE 2ND DAY WE OWNED THE CAR THE OIL LIGHT CAME ON AND WE HAD TO RETURN IT TO THE DEALER FOR MORE OIL. OVER THE NEXT 2 YEARS THE CAR BURNED AN EXCESSIVE AMOUNT OF OIL STARTING AT 1 QRT EVERY 2500 MILES AND DETERIORATING TO 1 QRT EVERY 800 MILES. ALL ALONG THE DEALER TOLD US THIS WAS "NORMAL". IN MAY 2011, DEALER TOLD US THAT AUDI HAD INITIATED A TESTING PROGRAM AND IF THE CAR FAILED THEY WOULD DO SOMETHING. IN JUNE 2011, THE CAR FAILED TEST AND THE DEALER KEPT THE CAR FOR 3+ WEEKS CONDUCTING MAJOR ENGINE SURGERY.
- NHTSA Complaint: I RECENTLY PURCHASED A 2008 AUDI A4 2.0 WITH APPROXIMATELY 37,000 MILES ON IT. I'VE DRIVEN THE CAR LESS THAN 3000 MILES AND HAD TO ADD 1 QUART OF OIL EVERY MONTH OF OWNERSHIP (3). AUDI DEALERSHIP SAYS THIS IS NORMAL. LIKE THE PREVIOUS COMPLAINT LISTED ON THIS TOPIC, I TOO HAVE SEE A NUMBER OF BLOGS ON THE SUBJECT OF THE 2008 A4'S HAVING ISSUES WITH EXCESSIVE OIL CONSUMPTION. I'VE ALSO SEEN MENTION OF A TECHNICAL SERVICE BULLETIN BEING ISSUED BY AUDI ON THIS BUT I'VE YET TO FIND IT. \*TR
- NHTSA Complaint: I PURCHASED THE A4 USED WITH ONLY 19K MILES ON IT. I NOTICED THAT AFTER DRIVING 1,000 MILES, 1 QUART OF OIL WAS GONE. I FILLED IT BACK UP AND DROVE ANOTHER 1,000 MILES. THE SAME THING. I HAVE A FAMILY RELATIVE WHO OWNS A VW PASSAT WITH THE SAME ENGINE AND HER CAR BURNED OIL TOO. AUDI SAYS THAT THIS IS A COMMON PROBLEM AND THAT IT'S SOMETHING THE OWNER WILL HAVE TO GET USED TO. THIS IS NOT NORMAL, SOMETHING IS WRONG WITH THE ENGINES. THERE ARE SO MANY FORUMS AND SITES DEDICATED TO THE VW/AUDI 2.0T ENGINES CONSUMING OIL. \*KB

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- 1 • NHTSA Complaint: PURCHASED 2008 AUDI  
2 A4 NEW FROM DEALERSHIP IN OCTOBER  
3 2007. TWO MONTHS AFTER PURCHASE,  
4 NOTICE OIL CONSUMPTION PROBLEM AT  
5 1QT EVERY 1,000 MILES. DEALERSHIP SAYS  
6 THIS IS NORMAL BUT MY MECHANIC SAID IT  
7 IS NOT. WITH THE HELP OF A PRO-BONO  
8 ATTORNEY, CONTACTED AUDI AND  
9 DEMANDED REPAIR AT 12,000 MILES. AUDI  
10 REPLACED RINGS AND CAR WAS FINE FOR  
11 24,000 MILES. AT 36,000 MILES, LOW OIL  
12 LIGHT CAME ON - 1 QT LOW AGAIN. HAD OIL  
13 CHANGED BY MY MECHANIC AND TWO  
14 DAYS LATER A NEW PROBLEM - LOW OIL  
15 PRESSURE LIGHT COMES ON. HAD CAR  
16 TOWED TO DEALERSHIP AND THEY FOUND  
17 NOTHING WRONG WITH CAR (NO CODES,  
18 DRIVES FINE). I DEMAND THROUGH AUDI AN  
19 OIL PRESSURE TEST. TEST CAME BACK  
20 NORMAL. THEY TOLD ME TO DRIVE THE CAR  
21 AND THAT THERE IS NOTHING WRONG WITH  
22 IT. THE LOW OIL PRESSURE LIGHT IS STILL  
23 COMING ON EVERY 20 MINUTES OF DRIVING.  
24 THE CAR GOES BACK IN THE SHOP AGAIN  
25 THIS WEEK. CAR IS OBVIOUSLY DEFECTIVE  
26 AND I AM CONCERNED ABOUT MAJOR  
27 ENGINE DAMAGE. \*TR
- 15 • NHTSA Complaint: VW PASSAT 2008, LOW  
16 OIL LIGHT COME ON BEFORE SCHEDULE OIL  
17 CHANGE FREQUENTLY. THE CAR BURNS OIL  
18 BECAUSE OF THE TURBO ENGINE. AND THE  
19 EMISSION SYSTEM HAS A VALVE FAILURE  
20 TOO. \*TR
- 18 • NHTSA Complaint: MY '08 PASSAT WITH A 2.0  
19 T ENGINE BURNS THROUGH A GREAT DEAL  
20 OF OIL. ABOUT 1/2 LITER PER 1,000 MILES. IT  
21 IS A NEW CAR (NOW 28,000 MILES) AND  
22 SHOULD NOT BURN OIL! VW STATES THIS  
23 OIL CONSUMPTION IS NORMAL, BUT I  
24 DISAGREE. I LEASE THE CAR AND HAVE HAD  
25 ALL MAINTENANCE DONE AT THE DEALER. I  
26 MUST FREQUENTLY ADD OIL TO THE  
27 ENGINE AND HAVE BROUGHT IT IN TO BE  
28 SERVICED FOR THIS OIL CONSUMPTION  
ISSUE SEVERAL TIMES. FROM RESEARCH  
DONE ONLINE, THIS IS NOT A PROBLEM  
UNIQUE TO ME. PLEASE HELP! \*TR
- 26 • NHTSA Complaint: [2008 VW PASSAT] OWNED  
27 THE CAR FOR 9 MONTHS . . . CAR BURNS  
28 EXCESSIVE OIL. NEED TO ADD OIL BETWEEN  
SCHEDULED OIL CHANGES. IN APRIL 2010,  
OIL PRESSURE LIGHT CAME ON. DEALER



1 ADDED 2 QTS OF OIL AND TANK WAS STILL  
2 NOT FULL. STILL HAD 1,000 MILES TO GO  
3 BEFORE NEXT SCHEDULED OIL CHANGE.  
4 HAVE HAD OIL ADDED ON TWO OTHER  
5 OCCASIONS BETWEEN OIL CHANGES. 4. CAR  
6 IS SLUGGISH, ESPECIALLY WHEN GOING UP  
7 HILLS. NO RESPONSE OR RESOLUTION FOR  
8 THIS, BUT THE CAR HAS A TURBO ENGINE  
9 NOTE: THIS CAR HAS ONLY BEEN SERVICED  
10 BY VW DEALERSHIPS. \*TR

- 11 • NHTSA Complaint: [2008 VW GTI] THE  
12 ENGINE CONSUMES 3-4 EXTRA QUARTS OF  
13 SYNTHETIC OIL BETWEEN 5,000 MILE OIL  
14 CHANGE INTERVALS AS INSTRUCTED BY  
15 MANUFACTURER. ITS A 2.0T ENGINE THAT  
16 USES SYNTHETIC OIL. I HAD PREVIOUS  
17 VERSION OF 1.8T AND IT DID NOT CONSUME  
18 ANY OIL AT ALL. IF THE OIL IS NOT ADDED,  
19 THE CAR WOULD TAKE 2-3 TIMES TO START  
20 UP (DOESN'T MATTER WHICH SEASON) AND  
21 ITS HORRIBLE ON GAS MILEAGE. WENT TO  
22 DEALERSHIP 5 TIMES ALREADY AND EVERY  
23 TIME THEY TELL ME THAT THIS IS NORMAL  
24 CONSUMPTION. I INFORMED THAT I HAVE  
25 TO ADD OIL TO KEEP THE CAR GOING, THEY  
26 TOLD ME THAT ITS NOT THEIR PROBLEM  
27 UNTIL THE ENGINE CEASES AT WHICH TIME  
28 THEY WILL LOOK INTO IT. AS A CONSUMER,  
I HAVE NO CHOICE BUT TO KEEP ON ADDING  
THE SYNTHETIC OIL. I THOUGHT THAT  
SYNTHETIC OIL IS HARD TO BREAK DOWN  
AND YES I USED THE RECOMMENDED  
GRADE. VW IS TAKING ME FOR A RIDE. DOES  
ANYBODY HAVE ANY SUGGESTIONS? \*TR

- 19 • NHTSA Complaint: I HAVE AN AUDI A4 2007 ...  
20 ... THIS CAR BURNS OIL THROUGH EVERY  
21 1200-1500 MILES. AUDI IS AWARE OF THIS  
22 PROBLE ... I AM NOT THE ONLY ONE WHO  
23 HAS HAD THE SAME ISSUES. THIS YEAR OF  
24 CAR IS UNSAFE, AND SHOULD BE RECALLED  
25 TO FIX THE OIL CONSUMPTION ISSUES  
26 BEFORE THE DAMAGE OCCURS TO THE  
27 ENGINES. \*TR

- 24 • NHTSA Complaint: [2007 AUDI A4] SINCE I  
25 BOUGHT MY AUDI, I HAVE HAD TO PUT OIL  
26 IN IT MANY TIMES, AND HAVE BEEN TOLD  
27 THIS IS NORMAL FOR A TURBO. I THINK  
28 THAT IS CRAZY, AND EVEN AN AUDI  
SERVICE MAN TOLD ME NOT ALL OF THE  
TURBOS DO THAT. I HAVE ALSO HAD AN  
ISSUE WITH THE CAR SEEMING TO LOSE  
POWER AND JERK ABOUT TWICE A MONTH

1 WHEN I AM USUALLY AROUND 70 MPH. IT'S  
2 ALMOST AS IF THE IGNITION IS TURNED OFF  
3 FOR 1 SECOND, THEN IT ACTS FINE. THIS IS  
4 VERY STARTLING WHEN IT HAPPENS. \*TR

- 5 • Online Complaint: I have a 2008 Audi A4 with oil  
6 consumption problems. It burns one quart of oil every  
7 1,000 miles. The dealer said that this is a common  
8 problem and it has no solution. They said that I  
9 would have to get used to it. This is extremely  
10 common in the 2.0T engines throughout Audi and  
11 VW.

12 There are many websites and forums dedicated to this  
13 topic. Audi needs to issue a recall.

- 14 • Online Complaint: I bought an Audi A5 in march  
15 2011, 2 ltr TFSI petrol model. Yes, this drinks oil like  
16 nothing. So far it has done only 2000 miles and had  
17 to top up the oil for 4 times...which is nearly 4 lts.  
18 This is way above their specifications. They changed  
19 the crank valve but still the problem exists. Audi  
20 admits that there is a problem with TFSI 2 ltr petrol  
21 engines. But they don't admit that there is a problem  
22 in my car....I know one dealer in UK went to the  
23 extent of exchanging the vehicle and replaced with a  
24 brand new one again. Another, they kept on sending  
25 oil cans to their resident for replacements. All these  
26 shows that there is a problem with these engines.

27 Clever thing they do is, they do the oil test and say its  
28 within your specifications. They never admit until  
your warranty period is over. I think this is a world  
wide issue as mine is UK base. You need to push  
audi dealer to do something about it or contact your  
solicitors. Its no joke....there is a problem in these  
engines and its your money!!

- 29 • Online Complaint: I bought an Audi 3 in July 2010.  
30 After only a few months, I already noticed a problem  
31 with the oil. There was always a red warning light.  
32 After referring the problem to Germany, they  
33 replaced all the piston rings and engine gasket. They  
34 have also replaced the battery, and recently, the  
35 ignition switch, because the car would not start after  
36 several attempts.

37 It was very embarrassing to have an Audi, which  
38 only over a year old, to be towed because it won't  
start. With all these abnormal malfunctions in a 16  
month old car, it is obviously a lemon. Of course, the  
car dealer would not admit that it is defective. I am  
demanding a replacement, but they refused. I was  
informed that the 2-year warranty covers only parts  
and service, but not replacement. It is totally



disappointing to have a car that claims to have high end technology, but would not start! Is there no manufacturer's warranty from Audi? I no longer want to use a car that can compromise my safety!

- Online Complaint: I purchased a 2007 Audi A4 2.0 Turbo in May of this year with 40k miles on it. Vet checked clean. The oil light has come on several times, I had it checked by Audi and was told "The car is within spec to burn 1 qt per 1,000 miles". I replaced the battery and now fighting with the tail light.
- Online Complaint: I have had repeated mechanical problems with my 2009 Audi A-4 from the inception of the lease. . . . I need to monthly have my oil "topped" off, and I am being inconvenienced by having to drive to the dealership monthly, to have oil put into the vehicle. That is very frustrating, and I am putting unnecessary mileage on my vehicle, just to have it the oil level maintained at the proper level.
- Online Complaint: We leased a 2008 Audi A4, I noticed that every 500-700 miles, I would have to add a quart of oil to it. I called Audi, and have taken it in several times for this issue, all to just be told that every Audi 2.0 turbo, would have to have oil added to it, there would be nothing anyone could do. I have had this vehicle at the dealership several times over this, and was constantly told to "stop by we will add oil to it" (that is not convenient at all.) Why should I have to have it constantly filled, its a 2008 "luxury" vehicle.
- Online Complaint: I purchased a 2010 Audi A4 on May 24, 2010 with 22 miles on it. I have had to return the vehicle to the dealer for a quart of oil at 1800 miles, 3100 miles, and again at 4300 miles. The dealer is telling me that it is within their specifications that the car burns 1 quart of oil every 1000 miles. The car is burning excessive oil and they want me to accept that as normal. When I know it really means early signs of more serious engine problems.

Audi markets this vehicle as not requiring an oil change but every 10,000 miles. It is contradictory to require oil every 1300 miles, but doesn't need an oil change but every 10,000 miles. I believe their marketing tactics are misleading. Based upon my driving pattern and the need for this vehicle to require a quart of oil every 1300 - 1800 I have to take it to the dealer 3 - 4 weeks (once a month) which poses as a great inconvenience. Additionally, I don't feel safe traveling long distances in the car because of the

1 frequent replacement of oil. Not to mention the  
2 specialty oil that it requires.

- 3 • Online Complaint: I bought a demo A4 Audi in June  
4 07 with 7,000 miles on it. Since I first had the car it  
5 burned a lot of oil. This is my third Audi I have  
6 owned and thought it was strange that about every  
7 1,000 miles I had to add a quart of oil. First the Audi  
8 serviceman said 2,000 miles was normal. I began to  
9 keep record and this last time I went 1,673 miles and  
10 went through 3 quarts of oil which averages out to  
11 557 miles per quart. I complained to the service  
12 department and they ordered an oil consumption test  
13 and found it burned 7/10 of a quart of oil for 1,000  
14 miles which now they say is acceptable standards by  
15 Audi.

16 I own a Quaker State oil change and three of our  
17 technicians have said they never seen a car burn this  
18 much oil and claims there is a problem with the  
19 engine. Audi will not do anything about the problem.  
20 The other day driving the car it lost power going up a  
21 hill and the engine light flashed on then everything  
22 was ok. I am a 53 year old women on the road  
23 driving by myself afraid something will happened to  
24 the car. Is there any legal action I can take to help  
25 resolve this problem?

26 The economic damage is that I paid \$40,000 for a car  
27 that has an engine problem. I am fearful of driving  
28 the car especially when I have to drive out of state  
alone.

- 1 • Online Complaint: My 2008 Audi A4 burns oil at a  
rate of 1 quart per 1000 miles. I took it back to  
Tischer Audi three times after the oil pressure  
warning indicator came on at 6000, 10000 and 14000  
miles. Each time they merely checked for leaks and  
reported that it was operating normally. On the third  
occasion Audi began a 2 part oil burn off test which  
involved adding a precise measure of oil and required  
that I return the car after 600 miles to complete the  
test. I returned the car as directed and after 8 days my  
Audi was returned to me with a finding that it had  
burned off 0.57 quarts of oil. Tischer Audi informed  
me that this was well within Audi specifications.  
Recently I expressed my feelings to Audi Customer  
Relations that this problem is indicative of poor  
workmanship and contrary to the advanced  
engineering that they advertise.

I'm dissappointed that Audi is selling a car with a  
problematic engine such as this that forces the owner  
to keep a watchful eye on the oil level in order to  
avoid a catastrophe which should never be a concern.



- Online Complaint: I purchased a brand new 2010 A6 2.0 T in Oct. 2009. I have had the car since then and encountered some odd problems in the past 3 to 6 months. Initially, the car used to burn the engine oil faster than usual since I would have to top up the oil level almost every month, which I found really weird. A few months ago, the car started to basically shake when I would barely be driving at 80 km per hour.

- Online Complaint: I've seen other posts regarding the excessive oil consumption issue and we have the [2006 Passat 2.0T] car in the shop (again) for another check. Our car has ~40K miles and has had this issue since new. We just keep adding oil, 2 quarts at a time when the emergency light goes on.

They have performed oil consumption tests 2x and do not see any issues. However, this issue seems intermittent because we find that driving the car ~2000 miles can burn a few quarts of oil. There's no hint of oil in our driveway.

- Online Complaint: [2008 VW Jetta] I have had the exact same issues, 3 oil test, rings and seal replaced, same issue still, more test and a year later still waiting a response from VW. I use about 3 litres (quarts) of oil between changes and have even run out a couple of times. I love my car but am getting a little frustrated. The latest "wet & dry" test revealed nothing. At one point it was suggested a new engine, but if they all have the same issue what is the point. My car by the way is an 08' Jetta 2.0T.

- Online Complaint: My 2006 Passat 2.0T uses about 1 qt of oil every 1200-1500 miles. The dealer claims this is "normal". At over \$7 per qt for synthetic oil, I don't consider it normal. It's no wonder they only require oil changes every 10K. By then, you've nearly replaced the oil twice.

Does anyone know of a recall, class action suit, or fix for this.

- Online Complaint: [2008 VW EOS] Dropping a \$100.00 every 2 months on a synthetic oil change for an 08 Eos is a little pricey. If you have to add a liter of oil every 1000 kilometers then the motor has a design flaw. Volkswagen should step up to the plate and make it right.

31. When owners or lessees of Class Vehicles specifically complain to Volkswagen or its dealers about the excessive oil consumption problem, Volkswagen's policy is to deny that there is a known problem and to assert that

1 losing as much as one (1) quart of oil per 1,000 miles driven is normal!

2 32. Customers have reported the excessive oil consumption defect in the  
3 Class Vehicles to Volkswagen directly and through its dealers. Defendants are  
4 fully aware of the oil consumption defect contained in the Class Vehicles.  
5 Despite this, Defendants have failed to disclose and actively concealed the  
6 existence and nature of the defect from Plaintiff and the Class Members at the  
7 time of purchase and thereafter. Specifically, Defendants have:

- 8 (a) failed to disclose, at and after the time of purchase and  
9 thereafter, any and all known material defects or material  
10 nonconformities of the Class Vehicles, including the  
11 excessive oil consumption defect and, among others, the  
12 frequent supplemental oil costs between regularly scheduled  
13 oil changes;
- 14 (b) failed to disclose at the time of purchase that the Class  
15 Vehicles and their engines were not in working order, were  
16 defective, and were not fit for their intended purpose; and
- 17 (c) failed to disclose or actively concealed the fact that the Class  
18 Vehicles and their engines were defective, despite the fact that  
19 Defendants learned of such defects as early as, if not before,  
20 the first Class Vehicles were sold.

21 33. Defendants have caused Plaintiff and Class Members to expend  
22 money at its dealerships or other third-party repair facilities and/or take other  
23 remedial measures related to the excessive oil consumption defect in the Class  
24 Vehicles such as carrying containers of oil supply with them at all times.

25 34. Defendants have not recalled the Class Vehicles to repair the  
26 defective engines, and have not offered to reimburse Class Vehicle owners and  
27 leaseholders who incurred costs relating to excessive oil consumption and related  
28 problems.



1           35. Plaintiff and Class Members are reasonable consumers and do not  
2 expect their vehicles to require the addition of several quarts of oil between  
3 regularly scheduled oil changes.

4           36. Plaintiff and Class Members expect and assume that Defendants will  
5 not sell or lease vehicles with known defects, such as the excessive oil  
6 consumption defect, and will disclose any such defects to its consumers before  
7 they purchase the Class Vehicles. They do not expect Defendants to fail to  
8 disclose the excessive oil consumption defect to them, or to continually deny the  
9 defect.

10           37. Consequently, Class Members have not received the value for which  
11 they bargained when they purchased or leased the Class Vehicles.

12           38. As a result of the oil consumption defect, the value of the Class  
13 Vehicles has diminished, including without limitation the resale value of the  
14 Class Vehicles.

#### 15 TOLLING OF THE STATUTE OF LIMITATIONS

16           39. Because the defects in the design or manufacturer of the Class  
17 Vehicles and their engines cannot be detected until the vehicle has been driven  
18 and begins to consume excessive oil, Plaintiff and the Class Members were not  
19 reasonably able to discover the problem until after purchasing or leasing the  
20 Class Vehicles, despite their exercise of due diligence.

21           40. Plaintiff and the Class Members had no realistic ability to discern  
22 that the Class Vehicles and their engines are defective until their oil levels began  
23 dropping. In addition, despite their due diligence, Plaintiff and the Class  
24 Members could not reasonably have been expected to learn or discover that they  
25 were deceived and that material information concerning the Class Vehicles and  
26 their oil consumption issues were concealed from them. Therefore, the  
27 discovery rule is applicable to the claims asserted by Plaintiff and the Class  
28 Members.

1           41. In addition, even after class members contacted Volkswagen and/or  
2 its authorized dealers for vehicle repairs concerning the defective nature of the  
3 Class Vehicles, Plaintiff and Class Members were routinely told by Volkswagen  
4 and/or through its authorized agents for vehicle repairs that the Class Vehicles  
5 are not defective and that the oil consumption was within acceptable limits.

6           42. Any applicable statute of limitation has therefore been tolled by  
7 Volkswagen's knowledge, active concealment, and denial of the facts alleged  
8 herein. Volkswagen is further estopped from relying on any statute of limitation  
9 because of its concealment of the defective nature of the Class Vehicles and their  
10 engines.

#### 11 CLASS ACTION ALLEGATIONS

12           43. Plaintiff brings this lawsuit as a class action on behalf of himself  
13 and all others similarly situated as members of the proposed Plaintiff Class  
14 pursuant to Federal Rules of Civil Procedure 23(a), (b)(3), and/or (b)(2). This  
15 action satisfies the numerosity, commonality, typicality, adequacy,  
16 predominance, and superiority requirements of those provisions.

17           44. The Class and Sub-Class are defined as:

18           Class: All current and former owners or lessees  
19 of any 2007 through 2012 model year Audi  
20 or Volkswagen vehicles equipped with a  
21 2.0 liter turbocharged engine ("the  
Nationwide Class").

22           California Sub-Class: All Members of the Nationwide Class who  
23 reside in the state of California ("the  
California Sub-Class").

24           New York Sub-Class: All Members of the Nationwide Class who  
25 purchased the Class Vehicles in the state of  
26 New York ("the New York Sub-Class").

27           45. Excluded from the Class and Sub-Class are: (1) Defendants, any  
28 entity or division in which Defendants have a controlling interest, and its legal



1 representatives, officers, directors, assigns, and successors; (2) the Judge to  
2 whom this case is assigned and the Judge's staff; and (3) those persons who have  
3 suffered personal injuries as a result of the facts alleged herein. Plaintiff reserves  
4 the right to amend the Class and Sub-Class definitions if discovery and further  
5 investigation reveal that the Class and Sub-Class should be expanded or  
6 otherwise modified.

7 46. Numerosity: Although the exact number of Class Members is  
8 uncertain and can only be ascertained through appropriate discovery, the number  
9 is great enough such that joinder is impracticable. The disposition of the claims  
10 of these Class Members in a single action will provide substantial benefits to all  
11 parties and to the Court. The Class Members are readily identifiable from  
12 information and records in Defendants' possession, custody, or control, as well  
13 as from records kept by the Department of Motor Vehicles of various states.

14 47. Typicality: The claims of representative Plaintiff are typical of the  
15 claims of the Class in that the representative Plaintiff, like all Class Members,  
16 purchased and leased Class Vehicles designed, manufactured, and distributed by  
17 Volkswagen in which the engines were defective. The representative Plaintiff,  
18 like all Class Members, has been damaged by Defendants' misconduct in that he  
19 has incurred or will incur the cost of purchasing extra synthetic motor oil to  
20 replace the oil consumed by the defective engine. Furthermore, the factual bases  
21 of Volkswagen's misconduct are common to all Class Members and represent a  
22 common thread of fraudulent, deliberate, and negligent misconduct resulting in  
23 injury to all Class Members.

24 48. Commonality: There are numerous questions of law and fact  
25 common to Plaintiff and the Class that predominate over any question affecting  
26 only individual Class Members. These common legal and factual issues include  
27 the following:

28 (a) Whether the Class Vehicles and their engines are defectively

1 designed or manufactured such that they are not suitable for  
2 their intended use;

3 (b) whether the fact that the Class Vehicle suffer from an  
4 excessive oil consumption defect would be considered  
5 material by a reasonable consumer;

6 (c) whether as a result of Defendant's concealment or failure to  
7 disclose material facts, Plaintiff and Class Members acted to  
8 their detriment by purchasing Class Vehicles manufactured by  
9 Defendants;

10 (d) Whether Defendant was aware of the excessive oil  
11 consumption defect

12 (e) whether the excessive oil consumption defect constitutes an  
13 unreasonable safety risk;

14 (f) whether Defendants breached the express warranties with  
15 respect to the Class Vehicles;

16 (g) whether Defendants have a duty to disclose the defective  
17 nature of the Class Vehicles and their excessive oil  
18 consumption defect to Plaintiff and Class Members;

19 (h) whether Plaintiff and the other Class Members are entitled to  
20 equitable relief, including but not limited to a preliminary  
21 and/or permanent injunction; and

22 (i) Whether Defendant violated the consumer protection statutes  
23 of California and New York when it sold to consumer Class  
24 Vehicles that suffered from the excessive oil consumption  
25 defect.

26 49. Adequate Representation: Plaintiff will fairly and adequately  
27 protect the interests of the Class Members. Plaintiff has retained attorneys  
28 experienced in the prosecution of class actions, including consumer and product



1 defect class actions, and Plaintiff intends to prosecute this action vigorously.

2 50. Predominance and Superiority: Plaintiff and the Class Members  
3 have all suffered and will continue to suffer harm and damages as a result of  
4 Defendants' unlawful and wrongful conduct. A class action is superior to other  
5 available methods for the fair and efficient adjudication of the controversy.  
6 Absent a class action, most Class Members would likely find the cost of  
7 litigating their claims prohibitively high and would therefore have no effective  
8 remedy at law. Because of the relatively small size of the individual Class  
9 Members' claims, it is likely that only a few Class Members could afford to seek  
10 legal redress for Defendants' misconduct. Absent a class action, Class Members  
11 will continue to incur damages, and Defendants' misconduct will continue  
12 without remedy. Class treatment of common questions of law and fact would  
13 also be a superior method to multiple individual actions or piecemeal litigation in  
14 that class treatment will conserve the resources of the courts and the litigants and  
15 will promote consistency and efficiency of adjudication.

#### 16 FIRST CAUSE OF ACTION

17 (Violation of California's Consumer Legal Remedies Act,  
18 California Civil Code § 1750, *et seq.*)

19 51. Plaintiff hereby incorporates by reference the allegations contained  
20 in the preceding paragraphs of this Complaint.

21 52. Plaintiff brings this cause of action on behalf of himself and on  
22 behalf of the members of the Nationwide Class, or, in the alternative, on behalf  
23 of the members of the California Sub-Class.

24 53. Defendants are "persons" as defined by California Civil Code §  
25 1761(c).

26 54. Plaintiff and Class Members are "consumers" within the meaning of  
27 California Civil Code § 1761(d).

28 55. By failing to disclose and concealing the defective nature of the

1 Class Vehicles and their engines from Plaintiff and prospective Class Members,  
2 Defendants violated California Civil Code § 1770(a), as it represented that its  
3 Class Vehicles and their engines had characteristics and benefits that they do not  
4 have, and represented that its Class Vehicles and their engines were of a  
5 particular standard, quality, or grade when they were of another. *See* Cal. Civ.  
6 Code §§ 1770(a)(5) & (7).

7 56. Defendants' unfair and deceptive acts or practices occurred  
8 repeatedly in Defendants' trade or business, were capable of deceiving a  
9 substantial portion of the purchasing public, and imposed a serious safety risk on  
10 the public.

11 57. Defendants knew that its Class Vehicles and their engines suffered  
12 from an inherent defect, were defectively designed or manufactured, would fail  
13 prematurely, and were not suitable for their intended use.

14 58. Defendants were under a duty to Plaintiff and the Class Members to  
15 disclose the defective nature of the Class Vehicles and their engines and/or the  
16 associated maintenance costs because:

- 17 (a) Defendants were in a superior position to know the true state  
18 of facts about the safety defects contained the Class Vehicles  
19 and their engines;
- 20 (b) Plaintiff and the Class Members could not reasonably have  
21 been expected to learn or discover that their engines have a  
22 dangerous safety defect until after they purchased the Class  
23 Vehicles; and
- 24 (c) Defendants knew that Plaintiff and the Class Members could  
25 not reasonably have been expected to learn about or discover  
26 the safety defect.

27 59. In failing to disclose the excessive oil consumption defect,  
28 Defendants have knowingly and intentionally concealed material facts and



1 breached their duty not to do so.

2 60. The facts concealed or not disclosed by Defendants to Plaintiff and  
3 the Class Members are material in that a reasonable person would have  
4 considered them to be important in deciding whether or not to purchase  
5 Defendants' Class Vehicles, or to pay less for them. Had Plaintiff and other  
6 Class Members known that the Class Vehicles' contained safety defects in the  
7 engines that would cause oil to be consumed at rates of up to one (1) quart per  
8 500 miles, thus requiring the addition of substantial amounts of oil between  
9 scheduled oil changes, they would not have purchased the Class Vehicles or  
10 would have paid less for them.

11 61. Plaintiff and the Class Members are reasonable consumers who do  
12 not expect their engines to consume substantial amounts of oil. Plaintiff and  
13 Class Members do not expect to have to purchase and add costly synthetic motor  
14 oil, sometimes in quantities of one (1) quart of oil per 500 miles driven. Plaintiff  
15 and Class Members further expect and assume that Volkswagen will not sell or  
16 lease vehicles with known safety defects, such as the excessive oil consumption  
17 defect, and will disclose any such defect to its consumers when it learns of the  
18 defect.

19 62. As a result of Defendants' misconduct, Plaintiff and Class Members  
20 have been harmed and have suffered actual damages.

21 63. As a direct and proximate result of Defendants' unfair or deceptive  
22 acts or practices, Plaintiff and Class Members have suffered and will continue to  
23 suffer actual damages.

24 64. Plaintiff and the Class are entitled to equitable relief.

25 65. Plaintiff has provided all Defendants with notice of their alleged  
26 violations of the CLRA pursuant to California Civil Code § 1782(a). If, within  
27 30 days of the date of the notification letter, Defendants fail to provide  
28 appropriate relief for its violation of the CLRA, Plaintiff will amend this

1 Complaint to seek monetary, compensatory, and punitive damages, in addition to  
2 the injunctive and equitable relief that he seeks now.

3 SECOND CAUSE OF ACTION

4 (Violation of California Business & Professions Code §§ 17200, *et seq.*)

5 66. Plaintiff hereby incorporates by reference the allegations contained  
6 in the preceding paragraphs of this Complaint.

7 67. Plaintiff brings this cause of action on behalf of himself and on  
8 behalf of the Nationwide Class, or, in the alternative, on behalf of the California  
9 Sub-Class.

10 68. California Business & Professions Code § 17200 prohibits acts of  
11 “unfair competition,” including any “unlawful, unfair or fraudulent business act  
12 or practice” and “unfair, deceptive, untrue or misleading advertising.”

13 69. Defendants knew that the Class Vehicles and their engines suffered  
14 from an inherent defect that caused excessive oil consumption, were defectively  
15 designed or manufactured, and were not suitable for their intended use.

16 70. In failing to disclose the excessive oil consumption defect,  
17 Defendants have knowingly and intentionally concealed material facts and  
18 breached their duty not to do so.

19 71. Defendants were under a duty to Plaintiff and the Class Members to  
20 disclose the defective nature of the Class Vehicles and their defective engines  
21 because:

- 22 (a) Defendants were in a superior position to know the true state  
23 of facts about the safety defect in the Class Vehicles and their  
24 engines;
- 25 (b) Defendants made partial disclosures about the quality of the  
26 Class Vehicles without revealing the defective nature of the  
27 Class Vehicles and their engines; and
- 28 (c) Defendants actively concealed the defective nature of the



1 Class Vehicles and their engines from Plaintiff and Class  
2 Members.

3 72. The facts concealed or not disclosed by Defendants to Plaintiff and  
4 the Class Members are material in that a reasonable person would have  
5 considered them to be important in deciding whether or not to purchase  
6 Defendants' Class Vehicles, or to pay less for them. Had Plaintiff and other  
7 Class Members known that the Class Vehicles suffered from an excessive oil  
8 consumption defect, they would not have purchased the Class Vehicles or would  
9 have paid less for them.

10 73. Defendants continue to conceal the defective nature of the Class  
11 Vehicles and their excessive oil consumption defect even after Class Members  
12 began to report problems. Indeed, Defendants continue to cover up and conceal  
13 the true nature of the problem by asserting that losing quarts of oil between  
14 regularly scheduled oil changes is normal.

15 74. By their conduct, Defendants have engaged in unfair competition  
16 and unlawful, unfair, and fraudulent business practices.

17 75. Defendants' unfair or deceptive acts or practices occurred  
18 repeatedly in Defendants' trade or business, and were capable of deceiving a  
19 substantial portion of the purchasing public.

20 76. As a direct and proximate result of Defendants' unfair and deceptive  
21 practices, Plaintiff and the Class have suffered and will continue to suffer actual  
22 damages.

23 77. Defendants have been unjustly enriched and should be required to  
24 make restitution to Plaintiff and the Class pursuant to §§ 17203 and 17204 of the  
25 Business & Professions Code.

26 ///

27 ///

28 ///

## THIRD CAUSE OF ACTION

(Asserted on Behalf of the New York Sub-Class for Violations of the  
Consumer Protection From Deceptive Acts and Practices Act)

(N.Y. Gen. Bus. Law §§ 349, *et seq.*)

78. Plaintiff hereby incorporates by reference the allegations contained  
in the preceding paragraphs of this Complaint.

79. Plaintiff brings this cause of action on behalf of himself and on  
behalf of the New York Sub-Class against all Defendants.

80. Plaintiff and Class Members are consumers who purchased and/or  
leased Class Vehicles for personal, family, or household use.

81. Defendants engaged in unlawful conduct, made affirmative  
misrepresentations, or otherwise violated N.Y. Gen. Bus. Law §§ 349, *et seq.*  
Specifically, Defendants were aware that the Class Vehicles suffered from a  
excessive oil consumption defect that required supplemental addition of oil in  
quantities sometimes as high as one (1) quart per 500 miles driven for some  
Class Members. However, Defendants purposely failed to disclose this to  
Plaintiffs and Class Members during the purchase or lease of the vehicle or  
thereafter.

82. Defendants also engaged in unlawful conduct in violation of N.Y.  
Gen. Bus. Law §§ 349, *et seq.* by making knowing and intentional omissions.  
Defendants purposefully and knowingly failed to disclose the defect in the Class  
Vehicles in order to secure the sale of these vehicles at a premium price and also  
to mislead owners during the limited warranty period to avoid having to perform  
their contractual duties under the warranty.

83. Defendants did not fully and truthfully disclose to its customers the  
true nature of the inherent defect in the Class Vehicles, which was not readily  
discoverable upon purchase.

84. Defendants intended that Plaintiffs and all Class Members rely on



1 the acts of concealment and omissions, so that they would purchase the Class  
2 Vehicles.

3 85. As a result of Defendants' conduct, Plaintiff and Class Members  
4 have suffered an ascertainable loss. In addition to direct monetary losses  
5 incurred through having to purchase high quality synthetic oil as often as one (1)  
6 quart per 500 miles driven for some Class Members, Plaintiff and Class  
7 Members have also suffered an ascertainable loss by receiving less than what  
8 was promised.

9 86. A causal relationship exists between Defendants' unlawful conduct  
10 and the ascertainable losses suffered by Plaintiffs and the Class Members. Had  
11 Plaintiff and other Class Members known that the Class Vehicles suffered from a  
12 excessive oil consumption defect, thus requiring the addition of substantial  
13 amounts of oil between scheduled oil changes, they would not have purchased  
14 the Class Vehicles or would have paid less for them. Had Plaintiff and Class  
15 Members known about the oil consumption defect, they would not have  
16 purchased the Class Vehicles or would have paid less for them.

17 87. As a direct and proximate result of Defendants' violations of N.Y.  
18 Gen. Bus. Law §§ 349, *et seq.*, as set forth above, Plaintiff and the members of  
19 the New York Sub-Class have suffered an ascertainable loss of money and are  
20 therefore entitled to relief, including damages, plus triple damages, costs, and  
21 attorneys' fees under section 349(h) of the New York Consumer Protection from  
22 Deceptive Acts and Practices Act.

23 FOURTH CAUSE OF ACTION

24 (Breach of Written Warranty under the Magnuson-Moss Warranty Act, 15  
25 U.S.C. § 2301 *et seq.*)

26 88. Plaintiff hereby incorporates by reference the allegations contained  
27 in the preceding paragraphs of this Complaint.

28 89. Plaintiff brings this action on behalf of himself and on behalf of the

1 Nationwide Class against Defendant Volkswagen Group of America, Inc., only.

2 90. Plaintiff and the other Class Members are “consumers” within the  
3 meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

4 91. Volkswagen is a “supplier” and “warrantor” within the meaning of  
5 15 U.S.C. §§ 2301(4)-(5).

6 92. The Class Vehicles are “consumer products” within the meaning of  
7 15 U.S.C. § 2301(1).

8 93. Volkswagen’s express warranty is a “written warranty” within the  
9 meaning of 15 U.S.C. § 2301(6).

10 94. Volkswagen breached the express warranty by:

11 (d) Extending a 4-year/50,000 mile New Vehicle Limited  
12 Warranty<sup>2</sup> with the purchase or lease of the Class Vehicles,  
13 thereby warranting to repair or replace any part defective in  
14 material or workmanship at no cost to the owner or lessee;

15 (e) Selling and leasing Class Vehicles with engines that were  
16 defective in material and workmanship, requiring repair or  
17 replacement within the warranty period; and

18 (f) Refusing to honor the express warranty by repairing or  
19 replacing, free of charge, the engine or any of its component  
20 parts and instead charging for the repair and replacement  
21 parts.

22 95. Volkswagen’s breach of the express warranty has deprived the  
23 Plaintiff and the other Class members of the benefit of their bargain.

24 96. The amount in controversy of the Plaintiff’s individual claims meet  
25 or exceeds the sum or value of \$25,000. In addition, the amount in controversy  
26 meets or exceeds the sum or value of \$50,000 (exclusive of interests and costs)

27 <sup>2</sup> The express warrant terms with respect to the New Vehicle Limited  
28 Warranties for other Class Vehicles are substantially similar.



1 computed on the basis of all claims to be determined in this suit.

2 97. Volkswagen has been afforded a reasonable opportunity to cure its  
3 breach of written warranty, including when Plaintiff and other Class Members  
4 brought their vehicles in for diagnoses and repair of their engines.

5 98. As a direct and proximate cause of Volkswagen's breach of written  
6 warranty, Plaintiff and Class members sustained damages and other losses in an  
7 amount to be determined at trial. Volkswagen's conduct damaged Plaintiff and  
8 Class Members, who are entitled to recover actual damages, consequential  
9 damages, specific performance, diminution in value, costs, attorneys' fees,  
10 and/or other relief as appropriate.

11 FIFTH CAUSE OF ACTION

12 (Breach of Express Warranty under Cal. Comm. Code § 2313)

13 99. Plaintiff hereby incorporates by reference the allegations contained  
14 in the preceding paragraphs of this Complaint.

15 100. Plaintiff brings this cause of action against Volkswagen Group of  
16 America, Inc., on behalf of himself and on behalf of the Nationwide Class or, in  
17 the alternative, California sub-class.

18 101. Volkswagen provided all purchasers and lessees of the Class  
19 Vehicles with the express warranty described herein, which became part of the  
20 basis of the bargain. Accordingly, Volkswagen's express warranty is an express  
21 warranty under California law.

22 102. The 2.0 liter turbocharged engines and their component parts were  
23 manufactured and/or installed and/or distributed by Volkswagen in the Class  
24 Vehicles and are covered by the express warranty.

25 103. Volkswagen breached the express warranty by:  
26  
27  
28

- a. Extending a 4-year/50,000 mile New Vehicle Limited Warranty<sup>3</sup> with the purchase or lease of the Class Vehicles, thereby warranting to repair or replace any part defective in material or workmanship at no cost to the owner or lessee;
- b. Selling and leasing Class Vehicles with engines that were defective in material and workmanship, requiring repair or replacement within the warranty period; and
- c. Refusing to honor the express warranty by repairing or replacing, free of charge, the engines or any of their component parts affected by the excessive oil consumption defect, and instead charging for the repair and replacement parts.

104. Plaintiff and the Class Members (or the prior owners of their Class Vehicles) notified Volkswagen of the breach within a reasonable time and/or were not required to do so. Volkswagen was also on notice of the excessive oil consumption defect from the complaints and service requests for excessive oil consumption they received from Class Members and their dealers.

105. As a direct and proximate cause of Volkswagen's breach, Plaintiff and the other Class Members have suffered damages and continue to suffer damages, including economic damages at the point of sale or lease, *i.e.* the difference between the value of the vehicle as promised and the value of the vehicle as delivered. Additionally, Plaintiff and the other Class Members either have incurred or will incur economic damages related to the excessive oil consumption defect described herein.

106. Plaintiff and the other Class Members are entitled to legal and equitable relief against Volkswagen, including damages, consequential damages,

<sup>3</sup> The terms of the New Vehicle Limited Warranties for Class Vehicles are substantially similar.



1 specific performance, attorneys' fees, costs of suit, and other relief as  
2 appropriate.

### 3 SIXTH CAUSE OF ACTION

4 (Violations of Express Warranty Pursuant to N.Y. U.C.C. Law §§ 2-313.)

5 107. Plaintiff hereby incorporates by reference the allegations contained  
6 in the preceding paragraphs of this Complaint.

7 108. Plaintiff brings this cause of action against Volkswagen Group of  
8 America, Inc., on behalf of himself and on behalf of the New York Sub-Class.

9 109. Volkswagen provided all purchasers and lessees of the Class  
10 Vehicles with the express warranty described herein, which became part of the  
11 basis of the bargain. Accordingly, Volkswagen's express warranty is an express  
12 warranty under the state law express warranty statutes referred to herein.

13 110. The 2.0 liter turbocharged engines and their component parts were  
14 manufactured and/or installed and/or distributed by Volkswagen in the Class  
15 Vehicles and are covered by the express warranty.

16 111. Volkswagen breached the express warranty by:

- 17 d. Extending a 4-year/50,000 mile New Vehicle Limited
- 18 Warranty<sup>4</sup> with the purchase or lease of the Class Vehicles,
- 19 thereby warranting to repair or replace any part defective in
- 20 material or workmanship at no cost to the owner or lessee;
- 21 e. Selling and leasing Class Vehicles with engines that were
- 22 defective in material and workmanship, requiring repair or
- 23 replacement within the warranty period; and
- 24 f. Refusing to honor the express warranty by repairing or
- 25 replacing, free of charge, the engines or any of their
- 26 component parts affected by the excessive oil consumption

27 <sup>4</sup> The terms of the New Vehicle Limited Warranties for Class Vehicles are  
28 substantially similar.

1 defect, and instead charging for the repair and replacement  
2 parts.

3 112. Plaintiff and Class Members (or the prior owners of their Class  
4 Vehicles) notified Volkswagen of the breach within a reasonable time and/or  
5 were not required to do so. Volkswagen was also on notice of the excessive oil  
6 consumption defect from the complaints and service requests for excessive oil  
7 consumption they received from Class Members at their dealers.

8 113. As a direct and proximate cause of Volkswagen's breach, Plaintiff  
9 and the other Class Members have suffered damages and continue to suffer  
10 damages, including economic damages at the point of sale or lease, *i.e.* the  
11 difference between the value of the vehicle as promised and the value of the  
12 vehicle as delivered. Additionally, Plaintiff and the other Class Members either  
13 have incurred or will incur economic damages related to the excessive oil  
14 consumption defect described herein.

15 114. Plaintiff and the other Class Members are entitled to legal and  
16 equitable relief against Volkswagen, including damages, consequential damages,  
17 specific performance, attorneys' fees, costs of suit, and other relief as  
18 appropriate.

19 115. The New York Sub-Class: Volkswagen's practices, as alleged, were  
20 in violation of N.Y. U.C.C. Law §§ 2-313.

21 RELIEF REQUESTED

22 116. Plaintiff, on behalf of himself, and all others similarly situated,  
23 requests the Court to enter judgment against Defendants, and accordingly,  
24 request the following:

- 25 (a) An order certifying the proposed Class and Sub-Classes,  
26 designating Plaintiff as named representative of the Class, and  
27 designating the undersigned as Class Counsel;  
28 (b) A declaration that Defendants are financially responsible for

- 1 notifying all Class Members about the defective nature of the  
2 Class Vehicles and their engines;
- 3 (c) An order enjoining Defendants from further deceptive  
4 distribution, sales, and lease practices with respect to its Class  
5 Vehicles, and to remove and replace Plaintiff and Class  
6 Members' engines with a suitable alternative product and  
7 repair all other damages to the Class Vehicles caused by the  
8 defective engines;
- 9 (d) An award to Plaintiff and the Class of compensatory, actual  
10 exemplary, and statutory damages, including interest, in an  
11 amount to be proven at trial, except that for now, Plaintiff  
12 seeks only equitable and injunctive relief with respect to his  
13 claims under California's Consumer Legal Remedies Act,  
14 California Civil Code section 1750 *et seq.*;
- 15 (e) A declaration that Defendants must disgorge, for the benefit  
16 of the Class, all or part of the ill-gotten profits it received  
17 from the sale or lease of its Class Vehicles, or make full  
18 restitution to Plaintiff and Class Members;
- 19 (f) An award of attorneys' fees and costs, as allowed by law;
- 20 (g) An award of attorneys fees and costs pursuant to California  
21 Code of Civil Procedure § 1021.5;
- 22 (h) An award of pre-judgment and post-judgment interest, as  
23 provided by law;
- 24 (i) Leave to amend the Complaint to conform to the evidence  
25 produced at trial; and
- 26 (j) Such other relief as may be appropriate under the  
27 circumstances.

///



**DEMAND FOR JURY TRIAL**

117. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

Dated: May 1, 2012

Respectfully submitted,  
LAW OFFICES OF MARK YABLONOVICH

By: 

Neda Roshanian  
Michael Coats  
Attorneys for Plaintiff Ali Asghari

LAW OFFICES OF  
MARK YABLONOVICH  
LOS ANGELES